



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,916	03/15/2004	Ryan C. Hoth	PHOTRC	3086

7590 06/27/2006

Thompson E. Fehr  
Suite 300  
Goldenwest Corporate Center  
5025 Adams Avenue  
Ogden, UT 84403

EXAMINER

SILBERMANN, JOANNE

ART UNIT PAPER NUMBER

3611

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/801,916	HOTH, RYAN C.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Joanne Silbermann	3611	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.                                                             | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear how the primary section is inserted into the aperture and into the cavity. It is also not clear where the linear segment is.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the primary section having a second end removably inserted into the cavity must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

Art Unit: 3611

and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 7 and 14 (as far as definite) are rejected under 35 U.S.C. 102(b) as being anticipated by Silverman, US #1,415,722.

6. Silverman discloses a holder including a base having first and second perpendicular segments "c" and "b" and a cylindrical rod comprising a primary section 13, 14 and linear segment 12 attached thereto (Figures 1 and 2). The first end of the cylindrical rod forms knob 17. Regarding claim 7, Silverman teaches a means for removably retaining the base, as in Figure 4.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3, 4, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silverman in view of Blake, US 6,709,000.

9. Silverman does not teach the rod having an opening and a spring-loaded peg therein to retain the rod in position, however, such pegs are well known, as shown by Blake. Blake teaches a rod having spring-loaded peg 140 in opening 142. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to utilize such a peg and opening in the rod of Silverman as a more secure connection means for the rod.

10. Regarding claim 4, Silverman also teaches means for removably retaining the base, as shown in Figure 3.

11. Claims 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silverman and Blake as applied to claim 4 above, and further in view of Elmer, US #5,711,100.

12. Silverman and Blake do not teach magnets as a retaining means, however this is well known in the art as shown by Elmer. Elmer teaches a holder mounted to an automobile by magnets (Figure 1A). It would have been obvious to one of ordinary skill

Art Unit: 3611

in the art to utilize magnets on the base of Silverman so as to provide a retaining means that is secure yet removable (as taught by Elmer).

13. Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silverman and Blake as applied to claim 3 above, and further in view of Reyer, US #1,320,918.

14. Silverman and Blake do not teach countersunk apertures in the base or a drawer in the base. However, countersunk apertures are well known and are considered to be an obvious, alternative equivalent to the apertures shown by Silverman (Figure 1). It would have been obvious to one of ordinary skill in the art to utilize such apertures as an equivalent retaining means for the base. It also is well known to provide a drawer in a holder, such as a desk or other piece of furniture. It would have been obvious to one of ordinary skill to provide a drawer in the base of Silverman so that other articles may be conveniently held nearby, as is the purpose of a drawer.

15. Silverman and Blake also do not teach spring clips attached to the base, however this is well known as shown by Reyer. Reyer teaches spring clips 11 mounted to a holder. It would have been obvious to one of ordinary skill to utilize such spring clips on the base of Silverman so that articles may be held on the base, as is taught by Reyer.

16. Claims 8 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silverman in view of Elmer.

Art Unit: 3611

17. As discussed above, it would have been obvious to utilize magnets on the base of Silverman to provide a secure yet removable retaining means.

18. Claims 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silverman in view of Reyer.

19. As discussed above, countersunk apertures and a drawer would have been obvious to one of ordinary skill, and it would have been obvious to utilize spring clips, as shown by Reyer.

### ***Conclusion***


20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US patents 6705032, 4525946, 3600049, 601416 are cited as of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joanne Silbermann whose telephone number is 571-272-6653. The examiner can normally be reached on M-F 5:30 - 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3611

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Joanne Silberman  
Primary Examiner  
Art Unit 3611

js  
23 June 2006